

MOTION FILED - JAN 10 1963

IN THE

# Supreme Court of the United States

October Term, 1962

Nos. 119 and 142

WILLIAM J. MURRAY III, Infant, by MADALYN E. MURRAY, his mother and next friend, and MADALYN E. MURRAY, individually,  
*Petitioners,*

JOHN N. CURLETT, President, SAMUEL E. ESTEIN, Mrs. M. RICHMOND FARRING, ELI FRANK, JR., Dr. ROGER HOWELL, HENRY P. IRR, Dr. WILLIAM D. McELROY, Mrs. ELIZABETH MURPHY PHILLIPS, JOHN R. SHERWOOD, individually, and constituting the BOARD OF SCHOOL COMMISSIONERS OF BALTIMORE CITY.

## On Writ of Certiorari to the Court of Appeals of Maryland

SCHOOL DISTRICT OF ABINGTON TOWNSHIP, PENNSYLVANIA, JAMES F. KOEHLER, O. H. ENGLISH, EUGENE STULL and M. EDWARD NORTHAM,  
*Appellants,*

EDWARD LEWIS SCHEMPP, SIDNEY GERBER SCHEMPP, Individually and as Parents and Natural Guardians of ELLORY FRANK SCHEMPP, ROGER WADE SCHEMPP and DONNA KAY SCHEMPP.

## On Appeal from a District Court of Three Judges for the Eastern District of Pennsylvania

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**MOTION OF SYNAGOGUE COUNCIL OF AMERICA  
AND NATIONAL COMMUNITY RELATIONS ADVISORY  
COUNCIL FOR LEAVE TO FILE BRIEF AMICI CURIAE**

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LEO PFEFFER

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America and National Community  
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*Amici Curiae*

15 East 84th Street,  
New York 28, New York

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*v.s.*

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The undersigned, as counsel for the Synagogue Council of America and the National Community Relations Advisory Council, and on their behalf, respectfully move this

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Court for leave to file a brief *amici curiae* in the above-entitled actions.

The Synagogue Council of America is a co-ordinating body consisting of the organizations representing the three divisions of Jewish religious life: Orthodox, Conservative and Reform. It is composed of:

Central Conference of American Rabbis, representing the Reform rabbinate;

Rabbinical Assembly of America, representing the Conservative rabbinate;

Rabbinical Council of America, representing the Orthodox rabbinate;

Union of American Hebrew Congregations, representing the Reform congregations;

Union of Orthodox Jewish Congregations of America, representing the Orthodox congregations;

United Synagogue of America, representing the Conservative congregations.

The National Community Relations Advisory Council is a co-ordinating body comprised of the following national lay Jewish organizations, in addition to the congregational bodies mentioned above, concerned with American Jewish community relations:

American Jewish Congress;

Jewish Labor Committee;

Jewish War Veterans of the United States;

and 62 local Jewish Community Councils, including all the major cities in the United States.

The organizations affiliated with the Synagogue Council of America and the National Community Relations Ad-

visory Council include in their membership the majority of Americans affiliated with Jewish organizations. We believe, therefore, that in seeking to submit a brief in these cases we speak for the greater part of American Jewry.

The present cases raise questions as to the constitutionality of the practice of daily recitation of portions of the Bible and the Lord's Prayer in public schools.

In No. 119, the petitioners challenge practices followed in the public schools in Baltimore, Maryland, pursuant to the Rules adopted by the Board of School Commissioners of Baltimore City. Article VI, Section 6, of those Rules requires opening exercises each day consisting of "the reading, without comment, of a chapter in the Holy Bible and or the use of the Lord's Prayer." The Rule also provides that a child may be excused from participating in or attending these exercises upon the written request of his parent or guardian. The Maryland Court of Appeals rejected the petitioners' claim that this Rule, and the practices held in accordance therewith in the public schools, were unconstitutional. The case is here on writ of certiorari to review that decision.

In No. 142, the daily reading of the Bible is carried on in accordance with the command of a statute of the Commonwealth of Pennsylvania (24 Purdon's Pa. Stats. Ann. Sec. 15-1516): Under that statute, a child may be excused from the Bible reading ceremony upon the written request of his parent or guardian. The court below, a three-judge statutory District Court, held the statute requiring the reading of the Bible unconstitutional. The case is here on appeal from that decision.

The undersigned organizations support the claim made by the petitioners in No. 119 and the appellees in No. 142

that these practices in the schools violate the First Amendment to the United States Constitution as made applicable to the states by the Fourteenth Amendment. They take this position consistently with the policy they have adhered to for many years supporting the constitutional principle of separation of church and state and the constitutional guarantee of religious freedom. That policy has prompted them in the past to submit briefs *amici curiae* in this and other courts, most recently in *Engel v. Vitale* (October Term, 1961, No. 468), *Gallagher v. Crown Kosher Super Market* (October Term, 1960, No. 11) and *Braunfeld v. Gibbons* (October Term, 1960, No. 67), and earlier in *People ex rel. McCollum v. Board of Education*, 333 U. S. 203 (1948).

The undersigned organizations are deeply committed to the traditions of the Jewish religion. Many of them are directly involved in maintaining religious worship and in the vital task of religious teaching. They believe, however, that such worship and teaching are not appropriate in public schools:

If permitted to submit a brief in this case, the undersigned will present arguments that are based on their experience in counselling with millions of Jews in this country. In particular, they will argue that it is entirely illusory to believe as did the majority of the Maryland Court of Appeals, that the element of coercion in the public school atmosphere can be eliminated by allowing children to be excused from ceremonies ordained by school officials and conducted by their classroom teachers. They will argue that the decision below cannot be affirmed without ignoring the fact that, despite the right to withdraw, there is "an obvious pressure upon children to attend. . . . Mr. Justice Frankfurter concurring in *People ex rel. McCollum v. Board of Education*, 333 U. S. 203, 227 (1948).

The undersigned organizations will also seek to show, on the basis of their knowledge as spokesmen for religious groups, that neither the reading of the Bible nor the recitation of the Lord's Prayer can be deemed non-sectarian exercises. They will seek further to show that use of any form of the Bible and state-sponsored recitation of the Lord's Prayer in effect constitute state endorsement of the truth and religious validity of the faith with which the particular version of the Bible or Lord's Prayer is associated.

Finally, the undersigned organizations, representing as they do all branches of American Judaism, will seek to show that the exclusion of Bible reading and prayer recitation from the public schools does not manifest hostility towards religion, but on the contrary insures the freedom of religious groups to fulfil their mission in accordance with their conscience by preserving the integrity of religion and the mutual independence of religion and state.

We have sought the consent of counsel for the parties to the filing of this brief. Counsel for petitioners in No. 119 and counsel for appellees in No. 142 have consented. Counsel for respondents in No. 119 and for appellants in No. 142 have stated that they neither consent to nor oppose the filing of such a brief.

Respectfully submitted,

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Relations Advisory Council.*

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15 East 84th Street  
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January 4, 1963.